

ORDER OF DISMISSAL

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Judson H. Lipowitz
Judson H. Lipowitz

Michael B. Sauer
Michael B. Sauer

August 11, 1993

RE: Case No. 93-164-SPH
Cecilia Escalante

Enclosed please find a copy of the final Order of Dismissal issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Charlotte E. Radcliffe
Legal Secretary

encl

cc: Minda F. Goldberg, Esquire
Ms. Cecilia Escalante
Mr. Hodge C. Morgan
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

RECEIVED
JAN 11 1993
ZONING COMMISSION

POST-HEARING MEMORANDUM
OF DULANEY TONERS MAINTENANCE CORPORATION

A family connotes permanence, dependence and responsibility. There was a complete absence of evidence on these three criteria. First, the evidence showed no more of a commitment than the duration of the Lease - another 5-1/2 months. Ms. Donnelly's testimony, in fact, showed that the roommates all hope to marry -

Minda F. Goldberg
MINDA F. GOLDBERG
Wartzman, Omansky, Blibaum, Simons,
Steinberg, Sachs & Sagal, P.A.
341 North Calvert Street
Baltimore, Maryland 21202
(410) 685-0111
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of January, 1993, a copy of the foregoing Post-Hearing Memorandum of Dulaney Towers Maintenance Corporation was mailed, postage prepaid, to Deborah Dopkin, Esquire, 405 Allegheny Avenue, Towson, Maryland 21204. Attorney for Respondent.

Minda F. Goldberg
MINDA F. GOLDBERG

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RE: W/S Bellows Court, * BEFORE THE
opposite intersection of *
Swarthmore Drive, known * ZONING COMMISSIONER
as 9 Bellows Court *
* OF
Cecilia Escalante, *
Petitioner * BALTIMORE COUNTY
*
* Case No. 93-164 SPH
* (Item No. 168)

ANSWER TO POST HEARING MEMORANDUM

The evidence supports the use and occupancy of 9 Bellows Court by a family because the use is consistent with the definition of family in the Baltimore County Zoning Regulations : "any number of individuals lawfully living together as a single house-keeping unit and doing their cooking on the premises..." (emphasis added) BCZR §101. The distinction made by the regulations is between family occupancy, permitted as a matter of right in Density

Counsel for the Petitioner attempted to place great emphasis on her finding that the roommates operate as a single housekeeping unit - with cooking on premises. The evidence, however, was to the contrary. The roommates shared only the rental cost, utilities and staples - those expenses which were "equal." All other costs were separated down to the main course for dinner. Each roommate basically cleaned after themselves. Of course, they used the kitchen - but cooking on premises, contrary to their counsel's assertion, does not a family make. At most, Ms. Donnelly testified that they tried to eat together. The testimony was also clear that all furniture is separately owned and paid for with no substantial assets jointly purchased. Dulaney Towers submits that the house-

Residential (D.R.) zones, and that of a *rooming house*, which is the occupancy of a building "in its entirety by three or more unrelated adult person not related by blood, marriage or adoption to each other." BCZR § 101. Accordingly, the primary question before the Zoning Commissioner is whether the occupancy can be characterized as a *family* as opposed to a occupancy of a *rooming house* by boarders, as those terms are defined by the Baltimore County Zoning Regulations.

a. Duration of relationship: a family relationship is characterized as one relationship that is continuous and of a long duration. Roomers in a rooming house typically have no prior relationship.

b. Duration of occupancy: occupancy by members of a family begins and ends at the same time; roomers in a rooming house have unrelated terms of occupancy, which may be individually negotiated, at different rental rates, by separate and unrelated agreements with the property owner.

c. Selectivity: a family chooses to live together; roomers in a rooming or boarding house do not pre-select one another. Conversely, a landlord rents to an entire family, where a rooming house solicits individuals independently of other roomers.

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insisted that all four women be fully and equally responsible for the lease, and its attendant obligations of occupancy, maintenance, repair and rent.

4. Protestants maintain that a family connotes permanence, dependence and responsibility. Even though the criteria of the Zoning Regulations distinguishes only between family living and rooming houses, if one were to accept Protestant's criteria, the evidence is consistent that the relationship is one of long duration, inter-dependence and shared legal and practical responsibilities. Further, the testimony demonstrated that the relationships are characterized by domestic fondness, caring and protectiveness, as well -- all characteristic of family members.

5. Where a zoning ordinance fails to define the terms family, Courts in other jurisdictions have interpreted the requirement in a so-called "generic" sense, defining families in terms of the functional relationships of the persons living together based on the size and character of the group, the nature of the living arrangement and the impact on the residential character of the neighborhood. Typically, "functional families" are defined as a single house-keeping unit, with shared cooking facilities and/or access to all parts of the dwelling be all

d. Responsibility: family members share legal responsibility for their home; roomers each only rent single rooms within a building, without sharing responsibility for the whole facility.

e. Housekeeping, maintenance and repair: family members share cooking facilities, as well as furniture, personal property and chores; roomers, by taking space in a rooming house, do not share each other's personal property, regardless of ownership, nor does their occupancy commit them to maintenance of the household or the property. Roomers in a rooming house, are, in effect, strangers occupying private rental areas within a building, without sharing the other areas of the building.

f. Communal areas; access: family members share communal areas such as living room, dining room, kitchen and cooking facilities. Further, family members have access to all parts of the residence, unlike boarders who are restricted to their rented space.

3. Protestants argue that Petitioner's tenants are something less than a family. The standard by which the occupancy must be judged has to be a reasonable one, based on objective criteria applied to the clear language of the regulations. The undisputed testimony is that the relationships are long term, in all cases between five and six years; that the shared living arrangements among the women pre-existed the occupancy of this unit and is intended to be an ongoing one. Further, the landlord

household members. Rathkopf favors this approach as being one that

"seems entirely sound and can be supported by both the idea of zoning as a device to control the harmful secondary effects of land use, rather than to regulate the status of land users, and by more recent socio-economic and demographic changes affecting housing affordability and household formation patterns in this country." Rathkopf, The Law of Zoning and Planning, § 17A.03, p. 17A-26-27.

However, the determination of a functional family has been limited by the courts, by criteria such as the relative stability of the group, its family-like structure, its functioning as an integrated economic unit, evidence of a family-like domestic bond among its members, and whether the household negatively impacts the family character of the residential area. Rathkopf, § 17A.03, p. 17A-33.

The testimony supports the occupancy of the property by a functional family unit of relative stability and structure, functioning as an integrated economic unit, with a strong family-like domestic bond among its members.

6. The treatment of family status must also be viewed in light of the Fair Housing Amendments Act of 1988, Pub. L. No. 100-430, 102 Stat. 1619 (1988) (amending 42 USC §§ 3601-3619 [1982]). The amendments have been deemed to implicitly affect zoning ordinances "which restrict residential occupancy in single family residential districts" Rathkopf, The Law of Zoning and Planning, § 17C.02 According to Rathkopf, the prohibition under the Act makes it unlawful to make unavailable or deny a dwelling

because of familial status. Rathkopf maintains that the prohibition on familial status discrimination "may also render invalid zoning ordinances which restrict the number of unrelated persons who can live together". Though Rathkopf also cites an exemption which might encompass restrictions on the number of unrelated persons, the exemption is a qualified one whose applicability is limited to reasonable regulation.

7. The Petitioners lawfully live together. The definition of family in the BCZR was adopted in 1955. The use of the word "lawfully" may have then been intended to mean that people must have a legally ordained relationship in order to be "lawfully" living together. Petitioner contends that to construe the word "lawfully" to require a marital relationship cannot be sustained, and that to do so would be impermissibly discriminatory, both in intent and effect.

8. The interpretation of family urged by Petitioner does not render the Zoning Regulations without effect, nor does it prohibit a limitation on the number of individuals occupying a residence. Though the number of individuals who may occupy a residence should not be judged solely on whether they are related by blood or marriage, such occupancy may be limited on health or other reasonable, objective and ascertainable criteria.

There was no testimony that the occupancy of the dwelling by these four women results in overcrowding of the living areas in a manner that in any way distinguishes the number of individuals in

this house and the number of individuals in any other similar dwelling at the community.

WHEREFORE, having fully answered Protestant's Post Hearing Memorandum, and on the basis of the foregoing arguments and authority noted therein, Petitioner prays:

A. That the Zoning Commissioner for Baltimore County grant the Petition for Special Hearing to approve the use of 9 Bellows Court for occupancy by four unrelated adults living together as a "family"; and

B. That the Zoning Commissioner for Baltimore County find that the four unrelated adults are living together as a functional family; and

C. Such other and further relief as the nature of this cause may require.

Respectfully submitted,

Deborah C. Dopkin
Deborah C. Dopkin
ROSOLIO, SILVERMAN & KOTZ, P.A.
Suite 220, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
(410) 339-7100
Attorneys for Petitioner

MEMORANDUM OF POINTS AND AUTHORITIES

1. Baltimore County Zoning Regulations, 1987, as amended.
2. Rathkopf, Arden H. and Rathkopf, Daren A., The Law of Zoning and Planning, New York: Clark, Boardman, Callaghan, 1992.

CERTIFICATION OF MAILING

I HEREBY CERTIFY, that on this 12th day of January, 1993, a copy of the foregoing Answer to Post Hearing Memorandum was mailed, postage prepaid to Minda F. Goldberg, Esquire, Wartsman, Omansky, Blibaum, Simons, Steinberg, Sachs & Sagal, P.A., 341 North Calvert Street, Baltimore, Maryland 21202, Attorneys for Petitioner.

Deborah C. Dopkin
Deborah C. Dopkin

Re: PETITION FOR SPECIAL HEARING * BEFORE THE
W/S Bellows Court, 60' W of BOARD OF APPEALS
its intersection w/Swarthmore*
Drive (9 Bellows Court) *
Case No. 93-164 SPH * OF BALTIMORE COUNTY

Cecilia Escalante,
Appellant *

NOTICE OF APPEAL

Please note an appeal from the Findings of Fact and Conclusions of Law rendered by the Zoning Commissioner of Baltimore County, dated June 14, 1993 to the County Board of Appeals, and forward all papers in connection therewith to the Board for hearing. The Appellant is the Petitioner, Cecilia Escalante, whose address is 3600 Golden Eagle Drive, Phoenix, Maryland 21131.

Enclosed is the appeal fee of \$175.00, along with the sign fee of \$35.00.

Deborah C. Dopkin
Deborah C. Dopkin
ROSOLIO, SILVERMAN & KOTZ, P.A.
Suite 220, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
(410) 339-7100
Attorneys for Appellant

CERTIFICATION OF MAILING

I HEREBY CERTIFY, that on this 11th day of February, 1993, a copy of the foregoing Notice of Appeal was mailed, postage prepaid to Minda F. Goldberg, Esquire, Wartsman, Omansky, Blibaum,

Simons, Steinberg, Sachs & Sagal, P.A., 341 North Calvert Street, Baltimore, Maryland 21202, Attorneys for Petitioner.

Deborah C. Dopkin
Deborah C. Dopkin

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
W/S Bellows Court, 60' W of its * ZONING COMMISSIONER
intersection W/Searthmore Drive
(9 Bellows Court) * OF BALTIMORE COUNTY
9th Election District *
4th Councilmanic District * Case No. 93-164-SPH
Cecilia Escalante
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This most interesting case comes before the Zoning Commissioner as a Petition for Special Hearing filed by the owner of the subject property, Cecilia Escalante. The Petition, as filed, requests approval of "the use of 9 Bellows Court for occupancy by four (4) unrelated adults living as a family as defined in the Baltimore County Zoning Regulations" (B.C.Z.R.).

The Petition was no doubt filed as a result of a zoning violation case which was instituted against the property owner by Baltimore County. However, the prosecution of the violation case was stayed pending the outcome of this hearing on the instant Petition. The County's position within the violation case is that the subject property is not being used as a single family dwelling.

The requisite public hearing was scheduled and held for this case and testimony and evidence were taken. Appearing and testifying on behalf of the Petition was Cecilia Escalante, legal owner. Ms. Escalante was represented by Deborah Dopkin, Esquire. Also appearing on behalf of the Petition were the four (4) tenants of the subject property; namely, Patricia Ann Donnelly, Heidi J. Brauer, Susan Brittingham, and Laura Byrd. Appearing in opposition to the Petition were numerous residents and members of the Dulane Towers Condominium Association, the relevant community

association for the subject property. They were represented by Minda F. Goldberg, Esquire.

Testimony indicated that the subject property, known as 9 Bellows Court, is a townhouse unit in the Dulane Towers subdivision which is a community of well-kept townhomes and condominiums located in Towson near Dulane Valley and York Roads. Access to the community is through a guarded gate. This enhanced security is an attractive feature to potential residents of this development.

The facts of the case are actually quite simple and are not in dispute. They may be summarized by a brief review of the testimony presented by the witnesses. Cecilia Escalante testified that she is the owner of the subject property and has been for some time. In approximately August 1992, Mrs. Escalante entered into a lease agreement with the four above-named tenants. Mrs. Escalante testified that she believes these tenants to be nice young ladies and has received no complaints nor concerns about their conduct or behaviour while tenants.

Also testifying on behalf of the Petition was Patricia Donnelly, one of the tenants. Ms. Donnelly described the townhouse unit as containing a kitchen, living room and dining room on the first floor and three bedrooms upstairs. She also testified that an area in the basement has been converted to a fourth bedroom. The witness noted that she and her co-tenants are all in their 20s and have known each other for approximately 6 years. Three of the tenants work for the MCI long distance telephone company and the other is in school and works part-time. All are college graduates. Ms. Donnelly testified extensively about the history and relationship of these four individuals. As noted, they have known each other for some years, and previously three lived together at the Colony Apart-

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ments in Towson. Unfortunately, however, their apartment at the Colony was vandalized. Seeking a more secure home, they leased the subject premises from Mrs. Escalante in July 1992. Ms. Donnelly also testified that each resident maintains her own bedroom, although all share equal in the housekeeping responsibilities. Further, although each maintain their own separate financial accounts, one of the residents is responsible for collecting each tenant's share of the rent and paying same to Mrs. Escalante each month. Testimony was also presented that the tenants cook and share meals together, have made certain improvements to the property (particularly landscaping in the front yard), and depend on one another as would members of the more traditional nuclear family. Although not related by blood, Ms. Donnelly testified that she and her roommates feel that they are more than friends, and, although not leaving out the possibility of marriage in the future, they intend on residing together in the foreseeable time ahead.

Testifying in opposition to the relief requested was Vivian Casper from the Dulane Towers Condominium Association. Ms. Casper does not believe that the "four unrelated girlfriends" who reside at 9 Bellows Court are a family. She noted that there are restrictive covenants which run with the property which might bar occupancy of the dwelling in the present manner. However, as I repeatedly emphasized at the public hearing, these covenants are not a matter for enforcement by the Zoning Commissioner. Rather their applicability to the site and enforceability must be through a Court of competent jurisdiction. Clearly, I have no authority to construe or enforce these restrictive covenants.

Lastly, Leon Biel testified in opposition to the relief requested. He seemingly summarized the concerns of many of the residents. They

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are particularly troubled with the precedent which might be established by the residential arrangement at the subject property and are concerned about issues of traffic, overcrowding, etc.

As the calendar on the wall tells us, this is 1993 and as for the times, they indeed are a changin'. The concept of a family in our society is not what it used to be. A quick read of our daily newspapers or watching of our local newscasts on television clearly demonstrates the evolving concept of family and living relationships. Single-parent homes and alternative lifestyles have pushed the traditional nuclear family into a numerical minority.

These evolving concepts have had their effect on zoning regulations. As noted by Professor Rathkopf in his treatise, The Law of Zoning and Planning, Fourth Edition, (1992), zoning regulations in by-gone days largely did not define the term "family". Clearly, the legislatures concluded during those simpler times that a definition was not necessary, everyone knew what the term "family" meant. Further, as observed by Professor Rathkopf, the Courts have split in providing their own definition of "family" when the zoning regulations did not define that term. Some have adopted the liberal/traditional definition of a family while others have considered a more generic and modern concept.

However, through time, most jurisdictions have recognized the need to define a "family." This has been necessitated by the changing living arrangements of individuals in modern society. Certain of the definitions adopted have required a family to establish relationships by blood, marriage or adoption. These are the most restrictive of the definitions currently seen. Further, in certain instances they are legitimate and lawful. In fact, in a leading case, the United States Supreme Court

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permitted zoning restrictions on unrelated people living together in a single family zone, absent a showing that the individuals were related by blood, marriage or adoption. The Court noted that such a definition of family was not violative of the equal protection clause (14th Amendment) for so long as the restriction bears a rational relationship to a permissible state objective. See Belle Terre vs. Boras, 416 U.S. 1, 39 L. Ed. 2d 797, 94 S. Ct. 1536, (1974).

Fortunately, in the instant case, a definition of the term is provided by the B.C.Z.R. within Section 101. That definition does not require a relationship by blood, marriage or adoption. Instead, a family is defined as "Any number of individuals lawfully living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel." A review of several similar cases is useful in considering the application of this definition to the facts of this case.

At the public hearing for this case, Counsel for the Petitioners offered the case of Glover v. Crestwood Lake, Section One Holding Corporation, 746 F. Supp. 301 (S.D.N.Y. 1990) as relevant to the issue presented. However, a review of that case discloses that Glover relates to Section 8 housing and the requirements for same. In my view, it provides no meaningful assistance in resolving the issue here.

However, in City of Takoma Park v. County Board of Appeals for Montgomery County, 259 Md. 619, 270 A.2d 772, (1970) the Court of Appeals of Maryland considered the meaning of the word "family" as used in the zoning regulations promulgated by the City of Takoma Park. The Court affirmed a lower Court's ruling granting a special exception for a home occupation in an area zoned residential. The Court found that a woman and

her two children living in the home of a man who was not related to her by blood or marriage, were members of his "family" within the provisions of the zoning ordinance. In that instance, the ordinance defined family as "an individual, or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) not related by blood or marriage, living together as a single housekeeping group in a dwelling unit." It is significant in that case that the ordinance broadened the definition of family to include both individuals related by blood and marriage and those not so related. The Court relied on the definition provided in the ordinance to conclude that the County Council had intended that unrelated people often work and live together and that those societal units could be considered a family.

Another case of interest arises from the zoning ordinance in Montgomery County, Pennsylvania which was discussed in JALC Real Estate v. Blank, 104 Pa. 605, 522 A.2d 710, (1987). In that case, the zoning ordinance defined family as "Any number of individuals living together as a single, non-profit housekeeping unit and doing their cooking on the premises, excluding, however, occupants of a club, fraternity house, lodge, residential club or rooming house." That definition is substantially similar to that contained in the B.C.Z.R. The Court, in considering four unrelated mentally retarded adults residing together, held that they constituted a family and thus satisfied the provisions of the ordinance.

Further, in Borough of Glassboro v. Vallorosi, 219 NJ 64, 529 A.2d 1028, (1978) Aff'd at 539 A.2d 1223, the Court considered the definition of family enacted within the zoning regulations of Glassboro, New Jersey. That ordinance defined the term as "One or more persons occupying a dwelling unit as a single, non-profit housekeeping unit, who are living

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together as a stable and permanent living unit, being a traditional family unit, or the functional equivalent thereof." This case arose as a result of ten students at a nearby college (Glassboro State College) all living together in a single family district. The students shared housekeeping and domestic duties and were considered a family by the Court. Noted the Court, "the relationship between them (the students) shows stability, permanency and can be described as the functional equivalent of a family". Glassboro, *infra*, page 1033.

Thus, in all three of the above-cited cases, the Court found a group of persons unrelated by blood, marriage or adoption to be a family. In all cases, the ordinance at issue did not require a blood, marriage or adoption relationship and was similar to the Baltimore County ordinance. The ordinances consistently required a single housekeeping unit and an inter-individual relationship akin to the traditional nuclear family. This similar reasoning has been applied to other groups. For example, religious groups (groups of novices of a religious order living under the direction of a mother superior) were considered a family in Carroll v. City of Miami Beach, 198 So. 2d 643, (1967). Further, in some cases, sororities and fraternities have been held to be families. See Syracuse v. Snow, 205 N.Y.S. 785, (1924). However, in other instances, they have not been so considered. See Theta Kappa, Inc. v. Terre Haute, 226 NE 2d 907, (1967).

In addressing the regulation in the B.C.Z.R., it is clear that there are three prongs which the Petitioner's tenants must meet in order to constitute a family. Specifically, they must: 1) be lawfully living together; 2) form a single housekeeping unit; and 3) do their cooking on the premises. In addressing the last of these tests, it is clear that the

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four young ladies in this case cook on the premises and eat meals together. Their testimony in this respect was uncontradicted. Their residence cannot be construed to be a hotel or similar rental facility, thus compliance with that standard of the definition is found.

A second prong of the definition which is satisfied is that these four young ladies form a single housekeeping unit. Although testimony was that each has their own separate bedroom, it is clear that they share common housekeeping responsibilities for the dwelling structure as a whole. Testimony was uncontradicted that they each participate in the cooking, cleaning, and maintenance of the property. Clearly, these housekeeping responsibilities are shared and the responsibility is taken by all four tenants. Thus, there is no doubt that this prong of the definition is also satisfied.

The final prong to be considered is the most difficult. As noted above, the definition requires that these individuals are "lawfully living together". That they are living together is clear. The question arises by use of the word "lawfully". Simply stated, the case revolves around the legislature's intent in including this word within the definition. It is well-settled that in considering any statute, the Court shall consider the natural import of the words used therein. See Gerzenko vs. Public Services Commission, 226 Md. 295, 173 A.2d 362, (1961). Further, the B.C.Z.R. provides that any word or term not defined shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, (Unabridged.) Among the definitions of lawful in Webster's is that the term is to mean "authorized by law". This definition comports with Maryland case law. In Gerzenko, *infra*, the Court borrowed from the Black's Law

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Dictionary definition of "lawful" and stated that the word "implies that an act is authorized, sanctioned, or at any rate, not forbidden by law". Page 367 (emphasis added).

In the instant case, Counsel for the Petitioner argued that the tenants were lawfully living together because there was nothing illegal about their occupancy. However, I believe that this view is a misapplication of the term "lawful." Lawful does not mean the same as "not illegal." The mere fact that this dwelling is not being used as a place for drug sales or a house of prostitution does not make the tenancy thereof lawful. Clearly, the County Council intended that there must be some type of authorization by law for the residency. Clearly, a marriage license would constitute such an authorization. That document is the state's recognition of a lawful union between a man and a woman, recognizing the powers and responsibilities which attach to that family unit. Adoptions likewise are examples of legal authority extended by the State to individuals so that thereafter, those individuals are considered a family unit.

In the instant case, there was no evidence presented of any such State authorization. Further, there was not even an allegation that the definition discriminates against alternative lifestyles. Clearly, the four women who reside at 9 Bellows Court are good friends. For the present, they enjoy the society, protection and advantages which living together offers. One day they may marry or for any other reason, go their separate ways.

The MCI long distance telephone company draws no distinction between "friends and family" in their advertising campaign and billing rates. Unfortunately for the Petitioner herein, I believe that the B.C.Z.R. do distinguish friends and family and thus, I must find that the

four current residents of the subject property are not family as that term is defined in the B.C.Z.R.

If not a family, what is the use of the subject property? Clearly, again turning to the B.C.Z.R. for guidance, the use must be construed as a rooming house. Within Section 101 of the B.C.Z.R. that term is defined as "A building which is not the owners residence, which is occupied in its entirety by three or more adult persons not related by blood, marriage or adoption to each other". This description fits the current arrangement exactly. A rooming house is permitted in a D.R. zone only by special exception. It is clear from these definitions of family and rooming house that the tenancy by the four women at the subject site is not permissible as of right, and is only allowed by special exception. Thus, for the reasons set forth above, the Petition for Special Hearing must and shall be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons stated above, the relief requested in the special hearing must be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 14th day of January, 1993 that the Petition for Special Hearing to approve the use and occupancy of the subject property by four (4) unrelated adults as a "family" as defined in the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby DENIED.

LES:bjs

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

January 14, 1993

Deborah C. Dopkin, Esquire
502 Washington Avenue, Suite 220
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
W/S Bellow Court, 60' W of its intersection w/Swarthmore Drive
(9 Bellow Court)
9th Election District - 4th Councilmanic District
Cecilia Escalante - Petitioner
Case No. 93-164-SPH

Dear Ms. Dopkin:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3351.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

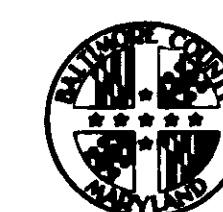
cc: Linda F. Goldberg, Esquire
341 North Calvert Street, Baltimore, Md. 21202

Ms. Vivian Kasper
18 Danbrooke Court, Towson, Md. 21204

Mr. Leon Bielat
4 Choate Court, Towson, Md. 21204

People's Counsel

File



Petition for Special Hearing to the Zoning Commissioner of Baltimore County for the property located at 9 Bellows Court

which is presently zoned D.R.-16

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve the use of 9 Bellows Court for occupancy by four (4) unrelated adults living as a "family" as defined in the Baltimore County Zoning Regulations.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

When do necessary records and affirm, under the penalties of perjury, that true are the legal owners of the property which is the subject of this Petition.

Legal Owner(s)

Cecilia Escalante

Type or Print Name

Signature

Address

City State Zipcode

Signature

3600 Golden Eagle Drive (410) 252-5340

Address

Phoenix, Maryland 21131

City State Zipcode

Name Address and phone number of legal owner, contract purchaser or representative to be contacted

Deborah C. Dopkin, Esquire

502 Washington Avenue, Towson, MD 21204 (339-7100)

Address

Phone No.

Office Use Only

ESTIMATED LENGTH OF HEARING

Available for Hearing

Next Two Months

ALL

REVIEWED BY

DATE

11/12/92

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ORDER RECEIVED FOR FILING
Date 1/14/93
By [Signature]

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LIVER 8101 PAGE 33

CONSENT A

BEING KNOWN AND DESIGNATED AND DESIGNATED as Condominium Unit No. 9, Building "T" Bellows Court in the "Dulany Towers Condominium No. 1", a Horizontal Property Regime, together with the undivided interest in the common elements of said Condominium, assigned to said Unit by the Condominium Master Deed hereinafter referred to, all as established pursuant to a Condominium Master Deed and Declaration from Dulany Valley Builders, a Maryland General Partnership, dated August 1, 1973 and recorded among the Land Records of Baltimore County in Liber WK 38 No. 3300 folio 679, et seq., and pursuant to the various plats described in said Condominium Master Deed, which said plats are also recorded among the aforesaid Land records in Liber WK 38 No. 36 folio 134, and also among the aforesaid Land records in Liber WK 38 No. 2, folio 17 through 39, et seq. Said Condominium Unit being known as No. 9 Bellows Court.

TOGETHER with the improvements thereto and the rights and appurtenances thereto belonging or appertaining and particularly the rights in common with others in the common elements of the aforesaid Condominium and all rights and privileges of a condominium owner in said Condominium, subject to the obligation of such owner.

93-164-SPH

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9th Date of Posting 7/19/93
Posted for [Signature]
Petitioner: Cecilia Escalante
Location of property: W/S Bellow Ct. 60' W of Swarthmore Drive
Location of Sign: Being posted, 60' W of Swarthmore Drive
Remarks: [Signature]
Posted by [Signature] Date of return: 8/27/93
Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9th Date of Posting 12/1/92
Posted for [Signature]
Petitioner: Cecilia Escalante
Location of property: W/S Bellow Ct. 60' W of Swarthmore Drive
Location of Sign: Being posted, 60' W of Swarthmore Drive
Remarks: [Signature]
Posted by [Signature] Date of return: 12/1/92
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 12/10, 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 12/10, 1992

THE JEFFERSONIAN,

S. Zafe Orlean
Publisher

\$61.02

Baltimore County
Zoning Administration & Development Management
121 West Chesapeake Avenue
Towson, Maryland 21204

93-164-SPH

receipt

Account: 8-001-4190

Number

11/12/92

HY300158

PUBLIC HEARING FEES

QTY PRICE

1

1

TOTAL

\$50.00

NAME OF OWNER

ESCALANTE

DATE

11/12/92

BY

[Signature]

FOR

[Signature]

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DATE

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204

Account: R-001-0200
Number

2/12/93 A9300034

APPEAL FEES	QTY	PRICE
140 - OF ALL OTHER ORDERS	1 X	\$175.00
150 - POSTING SIGNS / ADVERTISING	1 X	\$35.00
TOTAL:		\$210.00

LAST NAME OF OWNER: ESCALANTE

04A04N0024MCHRC \$210.00
BA C004-02PM02-12-93

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204

Account: R-001-0150
Number

93-164 (1/4)

APPEAL FEES	QTY	PRICE
140 - OF ALL OTHER ORDERS	1 X	\$175.00
150 - POSTING SIGNS / ADVERTISING	1 X	\$35.00
TOTAL:		\$210.00

LAST NAME OF OWNER: ESCALANTE (BRITTINGHAM)

04A04N0058MCHRC \$210.00
BA C004-02PM02-12-93

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

DATE: 12/14/92

Cecilia Escalante
3600 Golden Eagle Drive
Pikesville, Maryland 21131

RE:
CASE NUMBER: 93-164-SPH (Item 168)
W/S Bellows Court, opposite intersection of Southmore Drive at south entrance
9 Bellows Court
9th Election District - 4th Councilmanic
Petitioner(s): Cecilia Escalante
HEARING: MONDAY, JANUARY 4, 1993 at 2:00 p.m. in Room 118, Old Courthouse.

Dear Petitioner(s):

Please be advised that \$ 61.02 is due for advertising and posting of the above captioned property and hearing date.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 105, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

ARNOLD JABLON
DIRECTOR

cc: Deborah C. Dopkin, Esq.

Printed on Recycled Paper

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

NOV 30 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-164-SPH (Item 168)
W/S Bellows Court, opposite intersection of Southmore Drive at south entrance
9 Bellows Court
9th Election District - 4th Councilmanic
Petitioner(s): Cecilia Escalante
HEARING: MONDAY, JANUARY 4, 1993 at 2:00 p.m. in Room 118, Old Courthouse.

Special Hearing to approve the use for occupancy by four (4) unrelated adults living as a "family".

Arnold Jablon
Director

cc: Cecilia Escalante
Deborah C. Dopkin, Esq.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Printed on Recycled Paper

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

December 23, 1992

Deborah C. Dopkin, Esquire
502 Washington Avenue #220
Towson, MD 21204

RE: Case No. 93-164-SPH, Item No. 168
Petitioner: Cecilia Escalante
Petition for Special Hearing

Dear Ms. Dopkin:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Printed on Recycled Paper

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

Arnold Jablon
Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: CECILIA ESCALANTE
Location: 99 BELLows COURT
Item No.: 168 (LJC) Zoning Agenda: NOVEMBER 23, 1992

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: [Signature] Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JP/KEK

Received By:
W. Carl Richard Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Cecilia Escalante
Petitioner's Attorney: Deborah C. Dopkin

Printed on Recycled Paper

Baltimore County Government
Fire Department
700 East Joppa Road Suite 901
Towson, MD 21204-5500 NOVEMBER 27, 1992 (410) 887-4500

Arnold Jablon
Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: CECILIA ESCALANTE
Location: 99 BELLows COURT
Item No.: 168 (LJC) Zoning Agenda: NOVEMBER 23, 1992

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: [Signature] Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JP/KEK

Printed on Recycled Paper

Department of Environmental Protection & Resource Management
Development Review Committee Response Form
Authorized signature: [Signature] Date: 11-30-92

File Number	Waiver Number	Zoning Issue	Meeting Date
DED DEPRM RP STP TE	166	11-23-92	
American Legion Dept. of MD		IN PROCESS	
DED DEPRM RP STP TE	167	11-23-92	
Cecilia Escalante		IN PROCESS	
DED DEPRM RP STP TE	168	11-23-92	
Michael J. and Peggy L. Navarre		NO COMMENTS	
DED DEPRM RP STP TE	172	11-23-92	
Pulte Home Corporation		NO COMMENTS	
DED DEPRM RP STP TE	173	11-23-92	
Clinton and Erika Routh		IN PROCESS	
DED DEPRM RP STP TE	174	11-23-92	
Goldenwood Associates		IN PROCESS	
DED DEPRM RP STP TE	175	11-23-92	
Salvo Road Limited Partnership		IN PROCESS	
DED DEPRM RP STP TE	177	11-23-92	
Ronald R. and Janet Lee Gaspari		IN PROCESS	
DED DEPRM RP STP TE	178	11-23-92	
Richard M. Diotte		NO COMMENTS	
COUNT 11			
John P. and Brenda J. Morgan		11-9-92	
DEPRM RP	152	NO COMMENTS	
Richard M. Diotte			
DED DEPRM RP	153	IN PROCESS	

Printed on Recycled Paper

DPW/Traffic Engineering
Development Review Committee Response Form
Authorized signature: [Signature] Date: 11/30/92

File Number	Waiver Number	Zoning Issue	Meeting Date
DED DEPRM RP STP TE	164	11-23-92	
Baltimore Bar-B Que Management Inc.		NIL	
DED DEPRM RP STP TE	165	11-23-92	
Roscoe Phipps		W/L	
DED DEPRM RP STP TE	166	11-23-92	
American Legion Dept. of MD		W/L	
DED DEPRM RP STP TE	167	11-23-92	
Cecilia Escalante		NIL	
DED DEPRM RP STP TE	168	11-23-92	
Michael J. and Peggy L. Navarre		NIL	
DED DEPRM RP STP TE	172	11-23-92	
Pulte Home Corporation		NIL	
DED DEPRM RP STP TE	173	11-23-92	
Clinton and Erika Routh		NIL	
DED DEPRM RP STP TE	174	11-23-92	
Goldenwood Associates		NIL	
DED DEPRM RP STP TE	175	11-23-92	
Salvo Road Limited Partnership		NIL	
DED DEPRM RP STP TE	177	11-23-92	
Ronald R. and Janet Lee Gaspari		NIL	
DED DEPRM RP STP TE	178	11-23-92	
COUNT 11			

Stonegate at Patapsco (Azeal Property)
90476
ZON DED TE (Waiting for developer to submit plans first)

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: November 25, 1992

FROM: Ervin Mc Daniel, Chief
Office of Planning and Zoning
Development Review Section

SUBJECT: Petitions from Zoning Advisory Committee
(November 23, 1992)

The Office of Planning and Zoning has no comments on the following petition(s):
Cecilia Escalante, Item No. 168

If there should be any further questions or if this office can provide additional
information, please contact Francis Morsey in the Office of Planning at 887-3211.

Prepared by: *Francis Morsey*

Division Chief: *Eric McDaniel*

EMCD/FM:rdn

168.ZAC/ZAC1



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 168

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it
does not access a State roadway and is not effected by any State Highway Administration
projects.

Please contact David Ramsey at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

David A. Ramsey 11/19/92
John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is _____
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Rec'd 11/30/92

Development Review Committee Response Form
Authorized signature: *William D. Ramsey* Date: 11/30/92

Project Name	File Number	Waiver Number	Zoning Issue	Meeting Date
Gregg and Joyce Kroeger	164			11-23-92 NC
Baltimore Bar-B Que Management Inc.	165			Comment
Roscoe Phipps	166			NC
American Legion Dept. of MD	167			Comment
Cecilia Escalante				NC
Michael J. and Peggy L. Navarre	172			NC
Pulte Home Corporation	173			NC
Clinton and Erika Routh	174			NC
Goldenwood Associates	175			NC
Salvo Road Limited Partnership	177			Comment
Ronald R. and Janet Lee Gaspari	178			NC
COUNT 11				
Richard M. Diotte	155			11-9-92

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

February 12, 1993

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Petition for SPECIAL HEARING
W/S Bellows Court, 60' W of its
intersection w/Swearthmore Drive
(9 Bellows Court)
9th Election District, 4th Councilmanic District
Cecilia Escalante-Petitioner
Case No. 93-164-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was
filed in this office on February 11, 1993 by Deborah C. Dopkin. All
materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the
appeal hearing when it has been scheduled. If you have any questions
concerning this matter, please do not hesitate to contact this office.

Very truly yours,

Carl Jablon
Arnold Jablon - Director
Zoning Administration and
Development Management

AJ:jaw

Enclosures

cc: Ms. Patricia A. Donnelly, 9 Bellows Court, Baltimore, MD 21204
Minda F. Goldberg, Wartsman, Omansky, Blibaum, Simons, Steinber,
Sachs & Segal, 341 N. Calvert Street, Baltimore, MD 21202
People's Counsel of Baltimore County
Old Courthouse, 400 Washington Avenue, Towson, MD 21204

File

APPEAL

Petition for Special Hearing
W/S Bellows Court, 60' W of its intersection
w/Swearthmore Drive
(9 Bellows Drive)
9th Election District, 4th Councilmanic District
Cecilia Escalante - Petitioner
Case No. 93-164-SPH

Petition(s) for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (none submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Protestant(s) Sign-In Sheets / Petitioner(s) Sign-In Sheets

Post Hearing Memorandum of Dulaney Towers Maintenance Corp.

Answer to Post Hearing Memorandum - D. Dopkin

Petitioner's Exhibits: Plat to accompany Petition
Unmarked Petitioner's Photographs (7)

Additional Information - copies of previous cases

Protestant's Exhibits: None

Zoning Commissioner's Order dated January 14, 1993 (Denied)

Notice of Appeal received February 11, 1993 from Deborah Dopkins

cc: Ms. Patricia A. Donnelly, 9 Bellows Court, Baltimore, MD 21204
Minda F. Goldberg, Wartsman, Omansky, Blibaum, Simons, Steinber,
Sachs & Segal, 341 N. Calvert Street, Baltimore, MD 21202
People's Counsel of Baltimore County
Old Courthouse, 3600 Washington Avenue, Towson, MD 21204

Request Notifications: P. David Fields, Director of Planning
and Zoning
Patrick Keller, Office of Planning and
Zoning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Comm.
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

DATE: October 5, 1993

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: Case No. 93-164-SPH
CECILIA ESCALANTE
District 9 C4

As no further appeals have been taken regarding the subject
matter, which was dismissed by order dated August 11, 1993, we have
closed the file and are returning same to you herewith.

cc: Donald T. Rascoe /ZADM
Michael Moran, Assoc. County Attorney

Attachment

RE: PETITION FOR SPECIAL HEARING : BEFORE THE COUNTY BOARD OF APPEALS
W/S Bellows Ct., 60' W of its : OF BALTIMORE COUNTY
Intersection w/Swearthmore Dr. :
(9 Bellows Court)
9th Election District : Zoning Case No. 93-164-SPH
4th Councilmanic District :
CECILIA ESCALANTE, Petitioner :
: : : : :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-
captioned matter. Notices should be sent of any hearing dates or other
proceedings in this matter and of the passage of any preliminary or
final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 1st day of March, 1993, a copy of the
foregoing Entry of Appearance was mailed to Deborah C. Dopkin, Esquire,
Rosolio, Silverman & Kots, P.A., Suite 220, Nottingham Centre, 502
Washington Ave., Towson, MD 21204-4513, Attorney for Petitioner; and
Minda F. Goldberg, Esquire, Wartsman, Omansky, Blibaum, Simons, Steinberg,
Sachs & Segal, P.A., 341 N. Calvert St., Baltimore, MD 21202, Attorney for
Protestants.

Peter Max Zimmerman
Peter Max Zimmerman

60 S.W. 1-11 PM 50
RECEIVED
COUNTY BOARD OF APPEALS



Zoning

Enforcement

Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3351

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Larry E. Schmidt
Zoning Commissioner

DATE: November 13, 1992

FROM: James H. Thompson - TLF
Zoning Enforcement Coordinator

SUBJECT: ITEM NO.: 168
PETITIONER: Cecilia and Daphne Escalante

VIOLATION CASE: # C93- 367

LOCATION OF VIOLATION: 9 Bellows Court
Baltimore, Maryland 21204
9th Election District

DEFENDANT: Cecilia and Daphne Escalante
3600 Golden Eagle Drive
Phoenix, Maryland 21131

Please be advised that the aforementioned petition is the
subject of an active violation case. When the petition is scheduled
for a public hearing, please notify the following persons:

NAME ADDRESS
Ms. Vivian Kasper Dulaney Towers
911 Locustvale Road
Towson MD 21204-2704

After the public hearing is held, please send a copy of the
Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so
that the appropriate action may be taken relative to the violation case.

JHT/TLF/cer

February 11, 1993

HAND DELIVER
Zoning Commissioner of Baltimore County
c/o Department of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

**RE: Petition for Special Hearing
Cecilia Escalante, Appellant
Case Number: 93-164 SPH**

Dear Sir/Madam:

Enclosed please find Appellant's Notice of Appeal to be filed with regard to the above captioned matter. Also enclosed is this firm's check in the amount of \$210.00 (appeal fee of \$175.00 and sign fee of \$35.00) to cover the costs of same.

Thank you for your assistance in this matter.

Very truly yours,

ROSOLIO, SILVERMAN & KOTZ, P.A.

Deborah C. Dopkin

 DCD / km^2

Enclosures

cc: Minda F. Goldberg, Esquire
Phyllis Cole Friedman, People's Counsel
Ms. Cecilia Escalante

August 4, 1993

William T. Hackett, Chairman
County Board of Appeals of
Baltimore County
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: Zoning Case No.: 93-1648PH
Cecilia Escalante, Appellant
Appeal of Zoning Commissioner's Decision

Dear Mr. Hackett:

On behalf of our client, Appellant Cecilia Escalante, we hereby withdraw her appeal in the above referenced case. As you may be aware, the four occupants of the 9 Bellows Court property have terminated their occupancy, thereby mooting the issue from which the original case arose.

I appreciate your attention to this matter. Should you have any questions, please do not hesitate to call.

Very truly yours,

ROSOLIO, SILVERMAN & KOTZ, P.A.

Deborah C Dopkin
Deborah C. Dopkin

PCD/lab

cc: Minda F. Goldberg, Esquire
Ms. Cecilia Escalante

DR. MORRIS C. MORGAN
3 WILLOW CT.
BALTIMORE, MD. 21204-2712

Mr. Doolin
Crime Bd. Affairs
Rm 419 2nd Court House
Tucson, Ariz 85704

Dear Mr. Justice
Confirming my belief, as a close neighbor to
9 Ballantyne Court, I am very interested in this
case.
In order that Sulway Towers Condo does not
become a rooming house area, it is essential that
this appeal be denied

I'll appreciate all available information as the case develops.

Thanks
for George C. Morgan

Added to file
2-22-83

BOARD OF APPEALS
20 FEB 22 AM 11:36

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

Heidi J. Brauer
Susan Butteringham
Dawna (B.D.)
Lumela, Elan
Francesco Escapante
m. Joyce m. Jones
Kurt A. Wisgaard
Deborah Dopkin
Cecilia Escamela
Patricia Ann Kaskley

ADDRESS

9 Bellows Ct Towson MD 21204
9 Bellows Ct Towson MD 21204
9 Bellows Ct Towson MD
51005 Dummer Rd Baltimore 21112
3600 Golden Eagle Dr 21118
3762 Buckle Ave 1 Montktn 21111
906 ADANA RD - 21208

3000 Camden Eagle Dr 21131
9 Bellows Ct 21204

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Harvey Krupper	18 Wanhawick St
Lisa B. Yates	4 Choate St
Benjamin S. Parkin	18 Wanhawick Ct.
Rutha S. Parkin	4 Choate St.
Barbara S. Taylor	103 Swantonmore Dr
George W. Hermann	46 Fleet Lane S. 2004
Joseph W. Hermann	131 Swantonmore Dr
John W. Hermann	8 Wanhawick St
John W. Hermann	12 Swantonmore Dr
John W. Hermann	131 Swantonmore Dr.

OFFICE: (410) 685-0111
FAX: (410) 685-4729
RESIDENCE: (410) 484-5399

MINDA F. GOLDBERG
ATTORNEY AT LAW

LAW OFFICES
WARTZMAN, OMANSKY, BLIBAUM,
SIMONS, STEINBERG, SACHS & SAGAL, P.A.
361 NORTH CALVERT STREET BALTIMORE, MD 21201

174 HIGGINS vs. SAFE D. & T. CO.
127 MD
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Tucker Brooke, deducting two hundred and fifty dollars to be paid during her life to Mrs. Emilie Major, our cousin, during her life, and at her death to be paid to the legatees before mentioned. The rent coming from the house on the north side of Water street, to Mrs. Baillio, the rent of the lot on Water street, to Mrs. Mary Walton, and that of the house on the south side of Main street, to Mrs. Tucker Brooke. She may use her discretion in dividing this money, however, between these families in her judgment of their respective needs, and may if she thinks proper give a residue of twenty per cent of it to Miss Mary Debrae Higgins, and to her sister, Miss Margaret Higgins. She may dispose by will of this property between these families as she may think best."

The Circuit Court No. 2 of Baltimore City adopted the view of the appellees and entered a decree accordingly. The terms of the decree were erroneous, if for no other reason because in a practically unbroken line of decisions it has been held that the use of the word "family" means parents and children, whether living together or not (*Cogswell v. Cogswell*, 69 Conn. 416), and therefore if the contention of the appellees is correct, and a distribution is to be made by family the children of Mrs. Walton and Mrs. Brooke should have *essita* in the distribution, as well as the mothers.

On the other hand, the position of the appellants in the first clause alone quoted contemplated a division between individuals and not families, and that, therefore, the estate should be divided into sevenths, one-seventh to pass to proper representatives of Mrs. Baillie, who has died since the death of the testator, one to Mrs. Walton, one to Mrs. B. and one to each of the following, Mary de Bree Higgin, Margaret Taylor Higgins, Edward Higgins and John de Bree Higgins.

The rules for the construction of wills are laid down both the text writers and the adjudicated cases. So far as necessary to consider them in this case, the law is as follows:

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and in the case of *Fellman v. Butte*, co. 71 Kc. 115, it is said: "In cases in which technical rules have been laid down to particular expressions, if we are to give them effect after an examination of the instrument that those technical rules was intended to carry out but defeat the intention of the author, the technical rules must yield to the intention and such a construction must be given as will effectuate it." "where there are possible conflicts growing out of the ambiguity of the will, the rule was laid down in *Hensley v. Hensley*, 119 Md. 491, by Justice Pope, following the *Taylor v. Watson*, 35 Md. 519 and *Pue v. Pue*, 1. 1. of will, says these words: "The general rule in the construction of wills is that where there is a general and particular apparent upon their face, the general intent shall prevail and the particular shall be so construed as to overcome the particular where there is a conflict between them." And this is in accordance with the decisions in *Wright v. Wells*, 72 Robinson v. Bonaparte, 102 Md. 72; and *Gordon* 102 Md. 315.

of *St. Aernan*, 1 Bradf. Sur. Reps., N. Y.)
 stated in these terms: "It is a sound principle of
 law that a clearly manifested intention in any part
 of a will is to give place to a doubtful provision or
 meaning. An express and positive devise cannot
 be destroyed by subsequent words of absolute import; the
 only when they are absolutely transcendentally
 adopted by Mr. Redfield in his work on
 Ed., p. 434, where he gives as the fourth
 rule applicable to the construction of wills:
 "A doubtful intention in one portion of a will is not
 a doubtful construction in any other portion of
 the will."
 In mind, how is the will of Mr. Andrews
 to be construed?
 If of his will he devises the rents to be
 paid to the houses in Norfolk to be distributed "be-

Plat to accompany Petition for Zoning ☐ Variance ☒ Special Hearing

PROPERTY ADDRESS: 9 Bellows Court
 Subdivision name: Dulany Towers
 plat book: 133 and 134 section: Building F

OWNER: **93-164-SPH**

LOCATION INFORMATION

Comstatment District: 4
 Election District: 9
 T-224' scale map: NE 11A
 Zoning: DR 16
 Lot size: _____ square feet

SEWER: ☒ ☐
WATER: ☒ ☐
 Chicago Bay Critical Area: ☐ ☒
 Prior Zoning Hearing: NONE

Zoning Office USE ONLY!
 reviewed by: LG ITEM #: 168 CASE#:

Scale of Drawing: 1" = 50'

Photographs
 Case 93-164-SPH

